



ATTORNEYS AT LAW  
www.margolisedelstein.com

**DELAWARE OFFICE:**  
**1509 GILPIN AVENUE**  
**WILMINGTON, DE 19806**  
**302-777-4680**  
**FAX 302-777-4682**

JEFFREY K. MARTIN, ESQUIRE  
jmartin@margolisedelstein.com

PHILADELPHIA OFFICE: \*  
THE CURTIS CENTER, 4TH FLOOR  
601 WALNUT STREET  
INDEPENDENCE SQUARE WEST  
PHILADELPHIA, PA 19106-3304  
215-922-1100  
FAX 215-922-1772

HARRISBURG OFFICE: \*  
3510 TRINDLE ROAD  
CAMP HILL, PA 17011  
717-975-8114  
FAX 717-975-8124

PITTSBURGH OFFICE:  
310 GRANT STREET  
THE GRANT BUILDING, SUITE 1500  
PITTSBURGH, PA 15219  
412-281-4256  
FAX 412-642-2380

SCRANTON OFFICE:  
THE OPPENHEIM BUILDING  
409 LACKAWANNA AVENUE  
SUITE 3C  
SCRANTON, PA 18503  
570-342-4231  
FAX 570-342-4841

SOUTH NEW JERSEY OFFICE: \*  
SENTRY OFFICE PLAZA  
216 HADDON AVENUE, 2ND FLOOR  
P.O. BOX 92222  
WESTMONT, NJ 08108  
856-858-7200  
FAX 856-858-1017

NORTH NEW JERSEY OFFICE:  
CONNELL CORPORATE CENTER  
THREE CONNELL DRIVE  
SUITE 6200  
BERKELEY HEIGHTS, NJ 07922  
908-790-1401  
FAX 908-790-1486

July 28, 2006

**Via Electronic Filing**  
The Honorable Gregory M. Sleet  
U.S. District Court for the  
District of Delaware  
844 North King Street  
Wilmington, DE 19801

**RE: Navarro v. Coons, et al.**  
**C.A. No. 05-565(GMS)**

Dear Judge Sleet:

I am writing to seek leave of Court to amend the Complaint in the above-captioned matter. We filed this matter alleging a violation of free speech as protected under the First Amendment of the United States Constitution. On May 30, 2006, the U.S. Supreme Court handed down the decision of Garcetti v. Ceballos, 126 S.Ct. 1951 (2006). Garcetti represents a major change (a restriction) on the rights of free speech for public servants such as my client, Corporal Trinidad Navarro. Having done extensive research after receiving the Opening Brief of Defendants, which included discussions with law professors and First Amendment specialists across the country, I believe that it is now necessary that we seek leave to amend to include an additional First Amendment protection, that of freedom of political belief and association to the Complaint that had been previously filed. At this point, I do not anticipate adding any other factual bases other than what has been stated in the Complaint.

The U.S. Supreme Court has consistently interpreted Rule 15(a) to freely grant leave to amend when justice so requires. Foman v. Davis, 371 U.S. 178 (1962). In view of the broad reach of the Garcetti opinion that may limit my client's exercise of free speech, it is in the interest of justice to my client that I must make this request to the Court. The impact of Garcetti can be vividly demonstrated in our matter wherein the Defendants chose not to file a Motion to Dismiss at the outset of the pleadings (presumably because the Complaint set forth a potentially viable action for restriction of free speech) and wherein the Garcetti decision plays prominently, if not exclusively, as the basis for Defendants' defense.

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It is my intention to file a formal Motion for Leave to Amend the Complaint in the next week. However, I am bringing this to the Court's attention today because under the current Scheduling Order, Plaintiff's Answering Brief is due on or before Monday, July 31, 2006. As soon I made the determination as to the necessity of the Motion to Amend, I contacted opposing counsel this morning because I believe that it would not serve judicial economy or efficiency to continue the Briefing until such time as there is a ruling on Plaintiff's Motion for Leave to Amend. Should the Court grant Plaintiff's Motion for Leave to Amend, we would anticipate a short period of discovery to allow the defense to discover our grounds for the addition of the political association claim. I would therefore anticipate a scheduling delay in this matter of approximately three (3) months before such time as case dispositive motions may be filed and briefed.

I regret that the timing of Plaintiff's request may have inconvenienced both the Court and my opposing colleagues. I am making this request because it is necessary for the protection of my client's interests.

Respectfully yours,

/S/

**JEFFREY K. MARTIN (#DE 2407)**

JKMsc

CC: Michelle Allen, Assistant County Attorney  
Jeffrey S. Goddess, Esquire  
Trinidad Navarro